dence not admissible under any circumstances. *Brott v. State,* 70 Neb. 395; *People v. Pfanschmidt,* 262 Ill. 411.

The courts which allow it, allow it only when the conditions as set out in the headnote are fulfilled. Such evidence is to be strictly scrutinized. The Nebraska court said: "The blood hound is frequently right in his conclusions, but that he is frequently wrong is a fact well attested by experience. It is unsafe evidence, and both reason and instinct condemn it." It seems that the minority courts are right. Human life is too sacred to be staked on the scent of a dog.

FRAUD—SALE OF LAND—MISREPRESENTATION OF MEASUREMENTS—O'NEILL v. CONWAY, 88 Conn. 651.—*Held,* that a vendor who makes representations as to the measurements of a plot of land, having no actual knowledge thereof nor any reasonable ground for believing them, and intending the vendee to rely thereon, is guilty of a fraud, and it does not matter that the actual boundaries are pointed out to the vendee and that he has an opportunity to make the measurements himself, if he does not do so and actually relies upon the statements of his vendor.

It is generally laid down that a statement made by a vendor with intent to influence the vendee, of which the vendor is consciously ignorant, or recklessly indifferent as to whether it is true or false, and upon which the vendee relies is a fraud. *Furnace Co. v. Foundry Co.,* 145 Fed. 596; *Snively v. Meixsell,* 97 Ill. App. 365; *Miller v. John,* 70 N. E. (Ill.) 27; *Converse v. Blumrich,* 14 Mich. 109; *Riggs v. Thorpe,* 67 Minn. 217; *Robertson v. Fry,* 144 Pac. (Ore.) 128; *Hanson v. Tompkins,* 2 Wash. 508. Representations of a vendor as to the quantity of land in a tract which he offers for sale are not mere matters of opinion, but are material, and the vendee may rely upon them, unless by the exercise of ordinary prudence he may readily ascertain their falsity. *Stearns v. Kennedy,* 103 N. W. (Minn.) 212; *McGhee v. Bell,* 120 Mo. 121; *Conn v. Atwell,* 46 N. H. 510. The vendor, if the representations be false, cannot avoid their consequences merely because the vendee might have ascertained their falsity by a survey of the land or by reference to official plats and records. *Porter v. Fletcher,* 25 Minn. 493; *Miller v. Wissert,* 134 Pac. (Okla.) 62. Nor can he avoid the consequences even if the true boundaries are pointed out to the vendee. *Stearns v. Kennedy, supra; Shell v. Roseman,* 71 S. E. (N. C.) 86; *Cawston v. Sturgis,* 29 Ore. 331. It is a matter of common knowledge that a man cannot view a tract of land and arrive at anything like an accurate estimate of its contents. *Boddy v. Conover,* 126 Iowa 31; *Disney v. Lang,* 90 Kans. 309; *Pringle v. Samuel,* 11 Ky. 43; *Starkweather v. Benjamin,* 32 Mich. 305; *Judd v. Walker,* 114 Mo. App. 128. Ordinary prudence does not require a survey and measurement thereof but the vendee may rely upon the positive statements of his vendor. *Ledbetter v. Davis,* 22 N. E. (Ind.) 744; *Judd v. Walker, supra.* The Massachusetts rule is contra. "If the representations relate to the number of acres within boundaries which are pointed out, they are not actionable, for they are to be regarded as the usual and ordinary means adopted by sellers

to obtain a high price." *Mooney v. Miller,* 102 Mass. 217; *Credle v. Swindell,* 63 N. C. 305. The Massachusetts rule is criticized in *Shuttlefield v. Neil,* 145 N. W. (Iowa) 1, and is followed in but a very few jurisdictions.

INDICTMENT AND INFORMATION—VARIANCE—NAME OF PERSON INJURED.—PEOPLE V. ANDERSON, 107 N. W. (ILL.) 840.—*Held,* that proof of an assault upon "Olson," the husband of the person filing the information, will not support a conviction where the information names "Jonas Olson" as the person assaulted.

The general rule is that the name of the person injured must be proved as laid, and variance between the allegation and proof in this particular is fatal. *Milontree v. State,* 30 Tex. App. 151. The Christian name of the person injured must be proved as charged, and variance between allegation and proof thereof is fatal. *Meyer v. State,* 50 Ind. 18; *Hughes v. State,* 41 Cal. 234; *Lewis v. State,* 90 Ga. 95. In Colorado it has even been held that there is a fatal variance between the allegation of ownership in Michael Johnson and proof of ownership in Mike Johnson. *Sullivan v. People,* 6 Colo. App. 458. Some courts, however, have made exception to the general rule. Where a name is spelled in two ways in an indictment and proved one way, there is no variance. *Davenport v. State,* 38 Ga. 184. If the variance is so slight that the person would have been readily known by the name used such variance is immaterial. *Aaron v. State,* 37 Ala. 106. In some cases, in event of a slight variance, the question of identity has been held to be one for the jury. *McLain v. State,* 71 Ga. 279. In *Bennett v. United States,* 194 Fed. 630 (affirmed 227 U. S. 333), it was held that where the record clearly indicates the identity there is no variance though the Christian name alleged is not that proved. In *Joyce v. State,* 2 Swan (Tenn.) 667, it was held that the objection of lack of proof of the Christian name of the deceased was too technical and insufficient to disturb the verdict, no question as to the name of the deceased having been raised at the trial. This case cannot be said to be contra to the principal case since it does not clearly appear in the report of the latter just when the question of identity was first raised. The holding of the principal case seems overtechnical. It would seem preferable to leave the question of identity to the jury.

MANDAMUS—LIABILITY OF GOVERNOR—MINISTERIAL DUTIES.—GANTENBEIN V. WEST, 144 PAC. (ORE.) 1171.—*Held,* that the governor of a state is subject to a writ of mandamus to compel the performance of ministerial duties.

It was early decided that the head of an executive department was amenable to judicial control in the performance of ministerial functions. *Kendall v. U. S.,* 12 Pet. (U. S.) 524; see *Marbury v. Madison,* 1 Cranch (U. S.) 137. *Contra, State v. Dike,* 20 Minn. 363; *R. R. Co. v. Randolph,* 24 Tex. 317. Many courts have proceeded on the assumption that the governor of a state fell within the same principle. *Magruder v.*